

**SAMPLE DEED OF EASEMENT FOR FARMS
IN SPECIAL AGRICULTURAL PRODUCTION AND
PRESERVATION AREAS**

DEED OF EASEMENT

**STATE OF NEW JERSEY
AGRICULTURE RETENTION AND DEVELOPMENT PROGRAM**

This Deed is made _____, 20 _____

BETWEEN _____
whose address is _____, and is referred to as the
Grantor;

AND _____, whose address is,
_____ and is referred to as the Grantee or Board.

The Grantor, Grantor's heirs, executors, administrators, personal or legal
representatives, successors and assigns grants and conveys to the Grantee a
development easement, **all of the Pinelands Development Credit(s)*** and
nonagricultural development rights on the Premises, located in the
_____ of _____, County of _____,
described in the attached Schedule A, (use this language if there is an exception area:
**and, for the limited purpose of the restrictions contained in Paragraph 13(b),
described in the attached Schedule C,**) incorporated by reference in this Deed of
Easement, for and in consideration of the sum of _____ Dollars. Any
reference in this Deed of Easement to "Premises" refers to the property described in
Schedule A, (use this language if there is an exception area: **and, for the limited
purpose of the restrictions contained in Paragraph 13(b), to the property
described in Schedule C.**)

use this language if landowner is retaining PDCs: *** (except those Pinelands
Development Credits retained by Grantor for the purpose of reserving the right to
build a future house(s) on the Premises (or on the Exception Area as described in
Schedule C.)**

The tax map reference for the Premises is:

_____ of _____

Block _____, Lot(s) _____

WHEREAS, the legislature of the State of New Jersey has declared that the
development of agriculture and the retention of farmlands are important to the present
and future economy of the State and the welfare of the citizens of the State; and

WHEREAS, the Grantor is the sole and exclusive owner of the Premises; and

WHEREAS, the Grantee believes that the retention and preservation of agricultural
lands is beneficial to the public health, safety and welfare of the citizens of the County of
_____; and

**WHEREAS, the Premises are located in a Special Agricultural Production [or
Preservation] Area in the Pinelands Area, which is designated under the Pinelands
Comprehensive Management Plan as eligible for Pinelands Development Credits;
and**

**WHEREAS, the Pinelands Commission has certain rights and obligations in this
Deed of Easement pursuant to N.J.S.A. 13:18A-1 et seq. and N.J.A.C. 7:50.**

Prepared by: _____

Print name and title

Record and Return to:

NOW THEREFORE, THE GRANTOR, GRANTOR'S HEIRS, EXECUTORS, ADMINISTRATORS, PERSONAL OR LEGAL REPRESENTATIVES, SUCCESSORS AND ASSIGNS PROMISES that the Premises will be owned, used and conveyed subject to, and not in violation of the following restrictions:

1. Any development of the Premises for nonagricultural purposes is expressly prohibited.
2. The Premises shall be retained for agricultural use and production in compliance with N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32, and all other rules promulgated by

the State Agriculture Development Committee, (hereinafter Committee), **as limited by the provisions of this Deed of Easement.** Agricultural use shall mean the use of the Premises for common farmsite activities including, but not limited to: production, harvesting, storage, grading, packaging, processing and the wholesale and retail marketing of crops, plants, animals and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease and pest control, disposal of farm waste, irrigation, drainage and water management and grazing.

- i. **Agricultural activities shall be limited to those associated with berry agriculture, horticulture of native Pinelands plants, forestry, beekeeping and fish and wildlife management.**
- ii. **Processing of permissible agricultural products shall be limited to washing, grading and packaging.**
- iii. **Retail marketing shall not be permitted.**
- iv. **Any disposal of farm waste regulated by the Pinelands Commission shall be in compliance with Paragraph 6 of this Deed of Easement.**

3. Grantor certifies that at the time of the application to sell the development easement to the Grantee and at the time of the execution of this Deed of Easement the nonagricultural uses indicated on attached Schedule (B) existed on the Premises. All other nonagricultural uses are prohibited except as expressly provided in this Deed of Easement.

4. All nonagricultural uses, if any, existing on the Premises at the time of the landowner's application to the Grantee as set forth in Section 3 above may be continued and any structure may be restored or repaired in the event of partial destruction thereof, subject to the following:

- i. No new structures or the expansion of pre-existing structures for nonagricultural use are permitted;
- ii. No change in the pre-existing nonagricultural use is permitted;
- iii. No expansion of the pre-existing nonagricultural use is permitted; and
- iv. In the event that the Grantor abandons the pre-existing nonagricultural use, the right of the Grantor to continue the use is extinguished.

5. No sand, gravel, loam, rock, or other minerals shall be deposited on or removed from the Premises excepting only those materials required for the agricultural purpose for which the land is being used. Any such materials removed from the Premises for the agricultural purpose for which the land is being used shall be done in compliance with the Pinelands Comprehensive Management Plan (PCMP), N.J.A.C. 7:50 and in some circumstances, approval by the Pinelands Commission may be required pursuant to the PCMP.

6. No dumping or placing of trash or waste material shall be permitted on the Premises unless expressly recommended by the Committee as an agricultural management practice **and approved by the Pinelands Commission pursuant to its regulations. Liquid or dewatered sewage sludge and sludge products derived from sewage sludge shall not be placed on the Premises under any circumstances.**

- i. **Sewage sludge means the solid residue and associated liquid resulting from the physical, chemical or biological treatment of wastewater in a domestic treatment works.**

7. No activity shall be permitted on the Premises which would be detrimental to drainage, flood control, water conservation, erosion control, or soil conservation, nor shall any other activity be permitted which would be detrimental to the continued agricultural use of the Premises.

- i. Grantor shall obtain within one year of the date of this Deed of Easement, a farm conservation plan approved by the local soil conservation district.
- ii. Grantor's long term objectives shall conform with the provisions of the farm conservation plan.

8. Grantee and Committee and their agents shall be permitted access to, and to enter upon, the Premises at all reasonable times, but solely for the purpose of inspection in order to enforce and assure compliance with the terms and conditions of this Deed of Easement. Grantee or the Committee agrees to give Grantor at least 24 hours advance notice of its intention to enter the Premises, and further, to limit such times of entry to the daylight hours on regular business days of the week.

9. Grantor may use the Premises to derive income from certain recreational activities such as hunting, fishing, cross country skiing and ecological tours, only if such activities do not interfere with the actual use of the land for agricultural production and that the activities only utilize the Premises in its existing condition. Other recreational activities from which income is derived and which alter the Premises, such as golf courses and athletic fields, are prohibited.

10. Nothing shall be construed to convey a right to the public of access to or use of the Premises except as stated in this Deed of Easement or as otherwise provided by law.

11. Nothing shall impose upon the Grantor any duty to maintain the Premises in any particular state, or condition, except as provided for in this Deed of Easement.

12. Nothing in this Deed of Easement shall be deemed to restrict the right of Grantor to maintain all roads and trails existing upon the Premises as of the date of this Deed of Easement. Grantor shall be permitted to construct, improve or reconstruct any roadway necessary to service crops, bogs, agricultural buildings, or reservoirs as may be necessary.

13(a). At the time of this conveyance, Grantor has (_____) existing single family residential buildings on the Premises and (_____) residential buildings used for agricultural labor purposes. Grantor may use, maintain, and improve existing buildings on the Premises for agricultural, residential and recreational uses subject to the following conditions:

- i. Improvements to agricultural buildings shall be consistent with agricultural uses;
- ii. Improvements to residential buildings shall be consistent with agricultural or single and extended family residential uses. Improvements to residential buildings for the purpose of housing agricultural labor are permitted only if the housed agricultural labor is employed on the Premises; and
- iii. Improvements to recreational buildings shall be consistent with agricultural or recreational uses. No additions to such buildings shall be constructed without the approval of the Pinelands Commission pursuant to the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50.
- iv. **Grantor shall not demolish any structures on the Premises that are greater than 50 years old without the approval of the Pinelands Commission pursuant to the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50.**

No historic building or structure located on the Premises may be demolished by the Grantor or any other person without the prior approval of the State

Agriculture Development Committee. Historic building or structure is a building or structure that, as of the date of this Deed of Easement, has been included in the New Jersey Register of Historic Places established pursuant to N.J.S.A. 13:1B-15.128 et. seq.

13(b). ***Optional paragraph, to be used only if there is an exception area. If no exception area, re-label Paragraph 13(a) to Paragraph 13.*** Grantor, their heirs, executors, administrators, personal or legal representatives, successors and assigns may use and maintain the Exception Area, as described in the attached Schedule C, subject to the following conditions:

- i. **(If the Exception Area is severable): The Exception Area may be severed and subdivided from the Premises but only with the approval of the Pinelands Commission and in accordance with the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50.**

(Right to Farm Language if Exception is Severable)

Grantors, grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns or any person to whom title to the Exception Area is transferred as well as the heirs, executors, administrators, personal or legal representatives, successors and assigns of all such persons are hereby notified and made aware that the Exception Area is adjacent to a parcel ("Premises") permanently deed restricted under the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq. Such persons taking title to the Exception Area are notified and made aware that agriculture is the accepted and preferred use of the adjacent Premises and that the adjacent Premises shall continue in agricultural use as defined in Section 2 of the Deed of Easement.

- ii. **(If the Exception Area is nonseverable): The Exception Area may not be severed or subdivided from the Premises.**

(Right to Farm Language if Exception is Non-Severable)

Grantors, grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns or any person who is occupying or residing on the Exception Area as well as the heirs, executors, administrators, personal or legal representatives, successors and assigns of all such persons are hereby notified and made aware that the Exception Area is adjacent to a parcel ("Premises") permanently deed restricted under the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq. Such persons occupying or residing on the Exception Area are notified and made aware that agriculture is the accepted and preferred use of the adjacent Premises and that the adjacent Premises shall continue in agricultural use as defined in Section 2 of the Deed of Easement.

14. Grantor may construct any new buildings for agricultural purposes. The construction of any new buildings for residential use, regardless of its purpose, shall be prohibited except as follows:

- i. To provide structures for **seasonal** housing of agricultural labor employed on the Premises but only with the approval of the Grantee, Committee **and the Pinelands Commission**. If the Grantee, Committee **and the Pinelands Commission** grant approval for the construction of agricultural labor housing, such housing shall not be used as a residence for Grantor, Grantor's spouse, Grantor's parents, Grantor's lineal descendants, adopted or natural, Grantor's spouse's parents, Grantor's spouse's lineal descendants, adopted or natural;

a. Seasonal housing of agricultural labor means residential dwellings, for the seasonal use of employees of an agricultural or horticultural use, which because of their character or location are not to be used for permanent housekeeping units and which are otherwise accessory to a principal use of the parcel for agriculture; and

- ii. **To provide structures for year-round housing of agricultural labor employed on the Premises but only with the approval of the Grantee, Committee and the Pinelands Commission and only if the Grantor has retained the appropriate number of Pinelands Development Credits, as identified in Paragraph 24, for the construction of such housing at the time of the conveyance of this Deed of Easement.** If the Grantee, Committee **and the Pinelands Commission** grant approval for the construction of agricultural labor housing, such housing shall not be used as a residence for Grantor, Grantor's spouse, Grantor's parents, Grantor's lineal descendants, adopted or natural, Grantor's spouse's parents, Grantor's spouse's lineal descendants, adopted or natural;
- iii. To construct a single family residential building anywhere on the Premises in order to replace any single family residential building in existence at the time of conveyance of this Deed of Easement but only with the approval of the Grantee, Committee **and the Pinelands Commission pursuant to the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50.**
- iv. _____ residual dwelling site opportunity(ies) have been allocated to the Premises pursuant to the provisions of N.J.A.C. 2:76-6.17, "Residual Dwelling Site Opportunity". The Grantor's request to exercise a residual dwelling site opportunity shall comply with the rules promulgated by the Committee in effect at the time the request is initiated **and shall only be granted if the Grantor has retained the appropriate number of Pinelands Development Credits for the construction of any such houses at the time of the conveyance of this Deed of Easement as identified in Paragraph 24.**

In the event a division of the Premises occurs in compliance with deed restriction No. 15 below, the Grantor shall prepare or cause to be prepared a Corrective Deed of Easement reflecting the reallocation of the residual dwelling site opportunities to the respective divided lots. The Corrective Deed shall be recorded with the County Clerk. A copy of the recorded Corrective Deed shall be provided to the Grantee, Committee **and the Pinelands Commission.**

In the event a residual dwelling site opportunity has been approved by the Grantee, the Grantor shall prepare or cause to be prepared a Corrective Deed of Easement at the time of Grantee's approval. The Corrective Deed of Easement shall reflect the reduction of residual dwelling site opportunities allocated to the Premises **and the reduction in reserved Pinelands Development Credits identified in Paragraph 24.** The Corrective Deed shall be recorded with the County Clerk. A copy of the recorded Corrective Deed shall be provided to the Grantee, Committee **and the Pinelands Commission.**

(OR)

- v. No residual dwelling site opportunities have been allocated pursuant to the provisions of N.J.A.C. 2:76-6.17. No residential buildings are permitted on the Premises except as provided in this Deed of Easement.

For the purpose of this Deed of Easement:

"Residual dwelling site opportunity" means the potential to construct a residential unit and other appurtenant structures on the Premises in accordance with N.J.A.C. 2:76-6.17.

"Residual dwelling site" means the location of the residential unit and other appurtenant structures.

"Residential unit" means the residential building to be used for single family residential housing and its appurtenant uses. The construction and use of the residential unit shall be for agricultural purposes.

"Use for agricultural purposes" as related to the exercise of a residual dwelling site opportunity and the continued use of the residential unit constructed thereto, means at least one person residing in the residential unit shall be regularly engaged in common farmsite activities on the Premises including, but not limited to: production,

harvesting, storage, grading, packaging, processing and the wholesale and retail marketing of crops, plants, animals and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease and pest control, disposal of farm waste, irrigation, drainage, water management and grazing.

15. The land and its buildings which are affected may be sold collectively or individually for continued agricultural use as defined in Section 2 of this Deed of Easement. However, no division of the land shall be permitted without the joint approval in writing of the Grantee and the Committee. In order for the Grantor to receive approval, the Grantee and Committee must find that the division shall be for an agricultural purpose and result in agriculturally viable parcels. Division means any division of the Premises, for any purpose, subsequent to the effective date of this Deed of Easement.

- i. For purposes of this Deed of Easement, "Agriculturally viable parcel" means that each parcel is capable of sustaining a variety of agricultural operations that yield a reasonable economic return under normal conditions, solely from each parcel's agricultural output.

16. In the event of any violation of the terms and conditions of this Deed of Easement, Grantee or the Committee may institute, in the name of the State of New Jersey, any proceedings to enforce these terms and conditions including the institution of suit to enjoin such violations and to require restoration of the Premises to its prior condition. Grantee, the Committee and the Pinelands Commission do not waive or forfeit the right to take any other legal action necessary to insure compliance with the terms, conditions, and purpose of this Deed of Easement by a prior failure to act.

17. This Deed of Easement imposes no obligation or restriction on the Grantor's use of the Premises except as specifically set forth in this Deed of Easement.

18. This Deed of Easement is binding upon the Grantor, the Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns and the Grantee; it shall be construed as a restriction running with the land and shall be binding upon any person to whom title to the Premises is transferred as well as upon the heirs, executors, administrators, personal or legal representatives, successors, and assigns of all such persons.

19. Throughout this Deed of Easement, the singular shall include the plural, and the masculine shall include the feminine, unless the text indicates otherwise.

20. The word 'Grantor' shall mean any and all persons who lawfully succeed to the rights and responsibilities of the Grantor, including but not limited to the Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns.

21. Wherever in this Deed of Easement any party shall be designated or referred to by name or general reference, such designation shall have the same effect as if the words, 'heirs, executors, administrators, personal or legal representatives, successors and assigns' have been inserted after each and every designation.

22. Grantor, Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns further transfers and conveys to Grantee all of the nonagricultural development rights and development credits appurtenant to the lands and Premises described herein, **including the ____ () Pinelands Development Credits that have been allocated to the Premises.** Nothing contained herein shall preclude the conveyance or retention of said rights by the Grantee as may be permitted by the laws of the State of New Jersey in the future. In the event that the law permits the conveyance of said development rights, Grantee agrees to reimburse the Committee (_____) percent of the value of the development rights as determined at the time of the subsequent conveyance.

23. That portion of the net proceeds, representing the value of the land only (and not the value of the improvements), of a condemnation award or other disposition of the Premises following termination of this Deed of Easement, as permitted pursuant to N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32, shall be distributed among the Grantor and the Grantee in shares in proportion to the fair market value of their interests in the Premises

on the date of execution of this Deed of Easement. For this purpose, the Grantee’s allocable share of the proceeds shall be the net proceeds multiplied by a fraction, **the numerator of which is the value of the development easement as determined by the Committee pursuant to N.J.A.C. 2:76-19 at the time of the initial acquisition** and the denominator of which is the full fair market value of the unrestricted Premises as certified by the Committee at the time of the initial acquisition, which is identified as (/).

Furthermore, the Grantee’s proceeds shall be distributed among the Grantee and Committee in shares in proportion to their respective cost share grants on the date of execution of this Deed of Easement. The Grantee shall use its share of the proceeds in a manner consistent with the provisions of N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32.

24. Grantor has reserved _____ Pinelands Development Credits for the right to construct a house on the Exception Area described in Paragraph 13(b), to construct a year-round agricultural labor housing pursuant to Paragraph 14ii or for the purpose of exercising a residual dwelling site opportunity, if any have been allocated, pursuant to Paragraph 14iv.

OPTIONAL:

25. Grantor agrees that impervious coverage of the Premises shall not exceed 10% of the total acreage of the Premises. Impervious coverage shall include, but not be limited to, houses, barns, stables, sheds, silos, outhouses, cabanas and other buildings, swimming pools, docks or decks. Temporary greenhouses and other temporary coverings that do not have impervious floors shall be excluded from the computation of the impervious coverage area.

OPTIONAL:

26. Agricultural use of wetlands and areas within 300 feet of wetlands (“wetlands transition areas”) shall be consistent with subchapter 6 of the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50-6, as may be amended from time to time. Specifically, except for the horticulture of native Pinelands species, berry agriculture, forestry and beekeeping, agriculture shall not be permitted in wetlands and wetlands transition areas, except if such agricultural uses existed prior to the promulgation of the Pinelands Comprehensive Management Plan in 1979 or if the Comprehensive Management Plan is amended to permit such uses.

The Grantor signs this Deed of Easement as of the date of the top of the first page. If the Grantor is a corporation, this Deed of Easement is signed and attested to by its proper corporate officers, and its corporate seal, if any, is affixed.

_____(L.S.)
_____(L.S.)
_____(Corporate Seal)
Secretary
(For use by corporations only)

(INDIVIDUAL ACKNOWLEDGMENT)

STATE OF NEW JERSEY, COUNTY OF _____ SS.:

I CERTIFY that on _____, 20 _____,

_____ personally came before me and acknowledged under oath, to my satisfaction, this that person (or if more than one, each person):

- (a) is named in and personally signed this DEED OF EASEMENT;
- (b) signed, sealed and delivered this DEED OF EASEMENT as his or her act and deed;
- (c) made this DEED OF EASEMENT for and in consideration of mutual obligations and benefits to each party; and
- (d) the actual and true consideration paid for this instrument is \$ _____.

Print name and title below signature

(CORPORATE ACKNOWLEDGMENT)

STATE OF NEW JERSEY, COUNTY OF _____ SS.:

I CERTIFY that on _____ 20 ____, the subscriber _____, personally appeared before me, who, being by me duly sworn on his or her oath, deposes and makes proof to my satisfaction, that he or she is the Secretary of _____, the Corporation named in the within Instrument; that _____ is the President of said Corporation; that the execution, as well as the making of this Instrument, has been duly authorized by a proper resolution of the Board of Directors of the said Corporation, that deponent well knows the corporate seal of said Corporation; and that the seal affixed to said Instrument is the proper corporate seal and was thereto affixed and said Instrument signed and delivered by said President as and for the voluntary act and deed of said Corporation, in presence of deponent, who thereupon subscribed his or her name thereto as attesting witness; and that the full and actual consideration paid to purchase a development easement as evidenced by the DEED OF EASEMENT is \$ _____ and the mutual obligations and benefits contained herein.

Sworn to and subscribed before me, the date aforesaid

Print name and title below signature

(COUNTY AGRICULTURE DEVELOPMENT BOARD)

THE UNDERSIGNED, being Chairperson of the _____ County Agriculture Development Board, hereby accepts and approves the foregoing restrictions, benefits and covenants.

ACCEPTED AND APPROVED this _____ day of _____, 20 ____.

Chairperson

County Agriculture Development Board

STATE OF NEW JERSEY, COUNTY OF _____ SS.:

I CERTIFY that on _____, 20 ____, _____ personally came before me and acknowledged under oath, to my satisfaction that this person: (a) is named in and personally signed this DEED OF EASEMENT, (b) signed, sealed and delivered this DEED OF EASEMENT as the Board's act and deed; and (c) is the Chairperson of the _____ County Agriculture Development Board.

Print name and title below signature

(STATE AGRICULTURE DEVELOPMENT COMMITTEE)

The State Agriculture Development Committee has approved the purchase of the development easement on the Premises pursuant to the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32 and the Garden State Preservation Trust Act, N.J.S.A. 13:8C-1 et seq., P.L. 1999, c.152 and has authorized a grant of ____% of the purchase price of the development easement to _____ County in the amount of \$_____.

Susan E. Payne, Executive Director
State Agriculture Development Committee

Date

STATE OF NEW JERSEY, COUNTY OF _____ SS.:

I CERTIFY that on _____, 20 _____,

_____ personally came
before me and acknowledged under oath, to my satisfaction, that this person:

- (a) is named in and personally signed this DEED OF EASEMENT,
- (b) signed, sealed and delivered this DEED OF EASEMENT as the Committee's act and deed, and
- (c) is the Executive Director of the State Agriculture Development Committee.

Print name and title below signature